

1 **BEFORE THE ARIZONA STATE BOARD OF APPRAISAL**

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3
4 In the Matter of:

5 **DAVID M. HOSSFELD**
6 Certified Residential Appraiser
7 Certificate No. 21120

Case No. 2537

8 **CONSENT AGREEMENT AND ORDER**

9 In the interest of a prompt and judicious settlement of the above-captioned matter
10 before the Arizona Board of Appraisal ("Board") and consistent with public interest,
11 statutory requirements and responsibilities of the Board, and pursuant to A.R.S. § 32-3601
12 *et seq.* and A.R.S. § 41-1092.07(F)(5), David M. Hossfeld, ("Respondent"), holder of
13 certificate no. 21120 and the Board enter into this Consent Agreement, Findings of Fact,
14 Conclusions of Law and Order ("Consent Agreement") as the final disposition of this
15 matter.

16 On May 15, 2008, the Board met to discuss Case No. 2537; Respondent appeared
17 personally and on his own behalf. At the conclusion of its discussion of the case, the
18 Board voted to offer the Respondent a Consent Agreement and Order of Discipline in lieu
19 of further administrative proceedings.

20 **JURISDICTION**

21 1. The Arizona State Board of Appraisal ("Board") is the state agency
22 authorized pursuant to A.R.S. § 32-3601 *et seq.*, and the rules promulgated thereunder,
23 found in the Arizona Administrative Code ("A.A.C." or "rules") at R4-46-101 *et seq.*, to
24 regulate and control the licensing and certification of real property appraisers in the State
25 of Arizona.
26

2. Respondent holds a license as a Certified Residential Appraiser in the State of Arizona, Certified License No. 21120, issued on April 9, 2004 pursuant to A.R.S. § 32-3612.

CONSENT AGREEMENT

Respondent understands and agrees that:

1. The Board has jurisdiction over Respondent and the subject matter pursuant to A.R.S. § 32-3601 *et seq.*

2. Respondent has the right to consult with an attorney prior to entering into this Consent Agreement.

3. Respondent has a right to a public hearing concerning this case. He further acknowledges that at such formal hearing he could present evidence and cross-examine witnesses. Respondent irrevocably waives his right to such a hearing.

4. Respondent irrevocably waives any right to rehearing or review or to any judicial review or any other appeal of these matters.

5. This Consent Agreement shall be subject to the approval of the Board and will be effective only when accepted by the Board and signed by the Executive Director. In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, except that the parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this document or any records relating thereto.

6. The Consent Agreement, once approved by the Board and signed by the Respondent, shall constitute a public record which may be disseminated as a formal action of the Board.

FINDINGS OF FACT

This matter deals with an appraisal conducted and report written by Respondent of a single family residence located at 1939 W. Osborn Road, Phoenix, AZ 85015 with a date of value of November 8, 2007.

On or about April 16, 2008, the Board's investigation revealed the following:

1. The appraisal report noted the incorrect zoning. The actual City of Phoenix zoning is R1-6 and not R-3.
2. The report does not contain a Highest and Best use statement.
3. The subject is assessed at 1404 square feet plus an unassessed (as to livable area) but evidently permitted guest house. There is no discussion in the appraisal report as to why the two separate dwellings were appraised as a single structure, only that they were appraised as a single structure. The inclusion of this area (the guest house) in the main living area resulted in a misrepresentation of the gross living area of the subject.
4. The driveway is shown as “4 car” but is only two cars wide. The carport is shown as “2 car” but is only wide enough for one vehicle. Typically, the common usage is not to report capacity, only accessibility.
5. There is no mention of the traffic influence due to fronting a busy feeder street. This factor should have at least been addressed in the report.

- 1 6. The Respondent's workfile is incomplete. There is no copy of the original
2 order from the client.
- 3 7. The narrative sections of the appraisal report contained mostly "standard
4 comments." The report shows "Improvements conform to the surrounding
5 homes." Not only is this section not for discussion about the subject
6 property but the subject does not conform to surrounding homes as it is the
7 only house with a guest house in that neighborhood.
- 8 8. There is no explanation why the subject's guest house was "double-
9 adjusted" in the Sales Comparison Approach. The guest house is included
10 in the first floor plan livable, then adjusted as a separate entity versus
11 comparables #1 and #3.
- 12 9. The Respondent notes in the "Market Conditions" portion of the appraisal
13 report that the "typical marketing time running 3 to 6 months." If fact, the
14 typical marketing times were closer to 90 days or less. Other sales that had
15 guest houses but were not used were found to have an average marketing
16 time of approximately 74 days.
- 17 10. The Respondent's choice of comparable sales in terms of size and use, and
18 the multiple adjustments for a guest house that is included in the gross
19 livable and also as a separate structure, do not contribute to a reliable
20 report. There were four sales of single family residences with detached
21 guest houses from the same time frame as the sales used and within close
22 guest houses from the same time frame as the sales used and within close
23 guest houses from the same time frame as the sales used and within close
24 guest houses from the same time frame as the sales used and within close
25 guest houses from the same time frame as the sales used and within close
26 guest houses from the same time frame as the sales used and within close

1 proximity to the sales used in the report but that were not considered by the
2 Respondent.

- 3 11. The selection of the comparable used by Respondent was misleading and
4 incorrect by virtually any lending institution or USPAP standards.
5

6 CONCLUSIONS OF LAW

7 1. Pursuant to A.R.S. § 32-3635, a certified or licensed appraiser in the State
8 of Arizona must comply with the standards of practice adopted by the Board. The
9 Standards of Practice adopted by the Board are codified in the USPAP edition applicable
10 at the time of the appraisal.
11

12 2. The conduct described above constitutes violations of the following
13 provisions of the USPAP, 2006 edition: Standards Rule 1-1(b) and (c); Standards Rule 2-
14 1(a) and (b); Standards Rule 2-2 (a), (b) and (c); Standards Ethics Rule – Conduct; and
15 Standards Ethics Rule—Competency.
16

17 ORDER

18 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties
19 agree to the following:

20 1. **Upon the effective date of this Consent Agreement, Respondent's**
21 **Certificate as a Certified Residential Appraiser shall be placed on probation for a**
22 **period of six (6) months.** During probation, Respondent shall comply with USPAP,
23 Arizona Revised Statutes and Appraisal Board rules.

24 2. Respondent shall successfully complete the following education within
25 **three (3) months** of the effective date of this Consent Agreement: **Seven (7) hours**
26 **of complex properties.** The education required under this paragraph may not be

1 counted toward the continuing education requirements for the renewal of
2 Respondent's certificate. The same class may not be repeated to fulfill the education
3 requirements of this Consent Agreement

4 Proof of completion of the required education must be submitted to the Board
5 within 3 weeks of completion of the required courses.

6 3. During the term of probation, Respondent shall: (a) demonstrate
7 resolution of the problems that resulted in this disciplinary action; and (b) otherwise
8 comply with the terms of this Consent Agreement.

9 4. During the period of probation, Respondent shall complete a minimum
10 of **twelve (12) appraisal reports** under the supervision of an Arizona Certified
11 Residential or Certified General Appraiser who shall serve as Respondent's mentor
12 ("Mentor"). The Mentor shall be either an Arizona Certified Residential or General
13 Appraiser.

14 5. **During the probationary period, the Respondent shall not issue a**
15 **verbal or written appraisal, appraisal review, or consulting assignment without**
16 **prior review and approval by a Mentor.** Each report shall be signed by the Mentor
17 as a supervisory appraiser. After six (6) months, the requirement of pre-approval of
18 appraisals by a mentor may be terminated upon approval by the Board if Respondent
19 has complied with the conditions set out in this Order.

20 6. The Mentor must be approved by the Board and is subject to removal by
21 the Board for nonperformance of the terms of this Consent Agreement. The Mentor
22 may not have a business relationship with Respondent except for the Mentor/Mentee
23 relationship nor may the Mentor be related to Respondent. Any replacement Mentor
24 is subject to the Board's approval and the remaining terms of this Consent Agreement.
25 The Board's Executive Director may give temporary approval of the Mentor until the
26 next regular meeting of the Board.

1 7. Not more than **30 days** after the effective date of this Consent
2 Agreement, Respondent shall submit to the Board the name and resume of an Arizona
3 Certified Residential or Arizona Certified General Appraiser who is willing to serve as
4 Respondent's Mentor together with a letter from the potential Mentor agreeing to
5 serve as Respondent's Mentor. If requested by Board staff, Respondent shall continue
6 to submit names, resumes, and letters agreeing to serve as Mentor until a Mentor is
7 approved by the Board. Any Mentor must be approved in writing by the Board.

8 8. Respondent shall bear all costs and expenses associated with the
9 mentorship and incurred in attended the course.

10 9. The Mentor shall submit monthly reports to the Board for each calendar
11 month during Respondent's probationary period reflecting the quantity and quality of
12 Respondent's work, including, but not limited to, improvement in Respondent's
13 practice and resolution of those problems that prompted this action. The Mentor's
14 report shall be filed monthly beginning the 15th day of the first month following the
15 start of Respondent's probationary period and continuing each month thereafter until
16 termination of the probationary period by the Board. **Even if the Mentor reviews no**
17 **appraisals during a given month, a report stating that no appraisals were**
18 **reviewed or approved must be submitted.** It is the Respondent's responsibility to
19 ensure that the Mentor submits his/her reports monthly. If the monthly reporting date
20 falls on a Saturday, Sunday, or holiday, the report is due on the next business day.
21 The monthly report may be filed by mail or facsimile.

22 10. The Respondent shall file an appraisal log with the Board on a monthly
23 basis listing every Arizona appraisal that he has completed within the prior calendar
24 month by property address, appraisal type, valuation date, the Mentor's review date,
25 the date the appraisal was issued, and the number of hours worked on each
26 assignment. The report log shall be filed monthly beginning the 15th day of the first

1 month following the start of Respondent's probationary period and continuing each
2 month thereafter until the Board terminates the probation. If the log reporting date
3 falls on a Saturday, Sunday, or holiday, the report log is due on the next business day.
4 **Even if Respondent performs no appraisals within a given month, he must still**
5 **file an appraisal log with the Board showing that no appraisals were performed.**
6 The monthly log report may be filed by mail or facsimile.

7 11. The Board reserves the right to audit any of Respondent's reports and
8 conduct peer review, as deemed necessary, during the probationary period. The Board
9 may, in its discretion, seek separate disciplinary action against the Respondent for any
10 violation of the applicable statutes and rules discovered in an audit of the
11 Respondent's appraisal reports provided to the Board under the terms of this Consent
12 Agreement.

13 12. Respondent's probation, including mentorship, shall continue until: (a)
14 Respondent petitions the Board for termination as provided in paragraph 13, and (b)
15 the Board terminates the probation and mentorship. Upon petition by the Respondent
16 for termination of the probation and mentorship, the Board will select and audit 3 of
17 Respondent's appraisal reports.

18 13. At the end of **six (6) months** from the effective date of this Consent
19 Agreement, the Respondent must petition the Board for termination of his mentorship
20 and probation. If the Board determines that Respondent has not complied with **all** the
21 requirements of this Consent Agreement, the Board, at its sole discretion, may either:
22 (a) continue the probation, including mentorship; or (b) institute proceedings for
23 noncompliance with this Consent Agreement, which may result in suspension,
24 revocation, or other disciplinary and/or remedial action.

1 14. Respondent shall not act as a supervising appraiser for other appraisers or
2 trainees, nor shall he act as a mentor, during the term of the probation. Respondent shall
3 also not teach any course related to real estate appraisals during the term of the probation.
4

5 15. Respondent shall comply with the Uniform Standards of Professional
6 Appraisal Practice in performing all appraisals and all Board statutes and rules.

7 16. If, between the effective date of this Consent Agreement and the
8 termination of Respondent's probation by the Board, Respondent fails to renew his
9 license while under this Consent Agreement and subsequently applies for a license or
10 certificate, the remaining terms of this Consent Agreement, including probation and
11 mentorship, shall be imposed if the application for license or certificate is granted.

12 17. Respondent has read and understands this Consent Agreement as set
13 forth herein, and has had the opportunity to discuss this Consent Agreement with an
14 attorney or has waived the opportunity to discuss this Consent Agreement with an
15 attorney. Respondent voluntarily enters into this Consent Agreement for the purpose
16 of avoiding the expense and uncertainty of an administrative hearing.

17 18. Respondent understands that he has a right to a public administrative
18 hearing concerning each and every allegation set forth in the above-captioned matter,
19 at which administrative hearing he could present evidence and cross-examine
20 witnesses. By entering into this Consent Agreement, Respondent freely and
21 voluntarily relinquishes all rights to such an administrative hearing, as well as all
22 rights of rehearing, review, reconsideration, appeal, judicial review or any other
23 administrative and/or judicial action, concerning the matters set forth herein.
24 Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

25 19. Respondent understands that this Consent Agreement, or any part
26 thereof, may be considered in any future disciplinary action against him.

1 20. The parties agree that this Consent Agreement constitutes final
2 resolution of this disciplinary matter.

3 21. Time is of the essence with regard to this agreement.

4 22. If Respondent fails to comply with the terms of this Consent Agreement,
5 the Board shall properly institute proceedings for noncompliance with this Consent
6 Agreement, which may result in suspension, revocation, or other disciplinary and/or
7 remedial actions. Respondent agrees that any violation of this Consent Agreement is a
8 violation of A.R.S. § 32-3631(A)(8), which is willfully disregarding or violating any
9 of the provisions of the Board's statutes or the rules of the Board for the
10 administration and enforcement of its statutes.

11 23. Respondent understands that this Consent Agreement does not constitute
12 a dismissal or resolution of other matters currently pending before the Board, if any,
13 and does not constitute any waiver, express or implied, of the Board's statutory
14 authority or jurisdiction regard any other pending or future investigation, action or
15 proceeding. Respondent also understands that acceptance of this Consent Agreement
16 does not preclude any other agency, subdivision or officer of this state from instituting
17 other civil or criminal proceedings with respect to the conduct that is the subject of
18 this Consent Agreement.

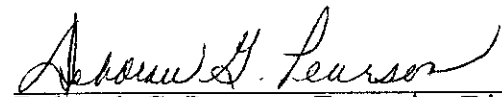
19 24. Respondent understands that the foregoing Consent Agreement shall not
20 become effective unless and until adopted by the Board of Appraisal and executed on
21 behalf of the Board. Any modification to this original document is ineffective and
22 void unless mutually approved by the parties in writing.

23 25. Respondent understands that this Consent Agreement is a public record
24 that may be publicly disseminated as a formal action of the Board.

1 26. Pursuant to the Board's Substantive Policy Statement #1, the Board
2 considers the violations in the above-referenced matter to constitute to a **Level III**
3 **Violation.**

4 DATED this 24th day of June, 2008.

5
6 
7 David M. Hossfeld, Respondent


Deborah G. Pearson, Executive Director
Arizona Board of Appraisal

8
9 **ORIGINAL** of the foregoing filed
10 this 24th day of June, 2008 with:

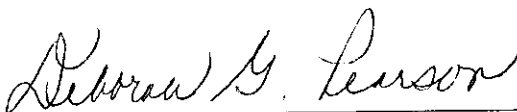
11 Arizona Board of Appraisal
12 1400 West Washington Street, Suite 360
13 Phoenix, Arizona 85007

14 **COPY** of the foregoing mailed regular mail *and certified mail 7006 0100 0002 8652*
15 this 24th day of June, 2008 to: *3790*

16 David M. Hossfeld
17 4039 East Hide Trail
18 Phoenix, Arizona 85050

19 **COPY** of the foregoing sent or delivered
20 this 24th day of June, 2008 to:

21 Jeanne M. Galvin
22 Assistant Attorney General
23 Arizona Attorney General's Office
24 1275 West Washington, CIV/LES
25 Phoenix, Arizona 85007

26
By: 

210341